

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMIE DAVID BUDZINSKI,

Plaintiff,

v.

Case Number 11-10018

Honorable David M. Lawson

Magistrate Judge Michael J. Hluchaniuk

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT AND PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT,
AND REMANDING CASE TO COMMISSIONER FOR FURTHER CONSIDERATION**

Presently before the Court is the report issued on March 1, 2012 by Magistrate Judge Michael J. Hluchaniuk pursuant to 28 U.S.C. § 636(b), recommending that this Court grant in part and deny in part both the defendant's motion for summary judgment and the plaintiff's motion for summary judgment, reverse in part the findings of the Commissioner, and remand the case for further consideration. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's Report and Recommendation [dkt. # 14] is **ADOPTED**.

It is further **ORDERED** that the defendant's motion for summary judgment [dkt. #12] is **GRANTED IN PART AND DENIED IN PART**.

It is further **ORDERED** that the plaintiffs' motion for summary judgment [dkt. #9] is **GRANTED IN PART AND DENIED IN PART**.

It is further **ORDERED** that the findings of the Commissioner are **REVERSED IN PART** and the case is **REMANDED** to the Commissioner for further consideration.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 20, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 20, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL